

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

CrI.MC.No. 536 of 2007()

CC.1121/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, HOSDRUG

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PETITIONER: ACCUSED NOS.1 TO 4:

1. T.K.KHALID, S/O A.G.ABDULLA,
KOOVAL STORE, KANHANGAD VILLAGE.
2. T.K.SUHARA, W/O A.G.ABDULLA,
KOOVAL STORE, KANHANGAD VILLAGE.
3. FATHIMA T.K., W/O AHAMMAD,
KOVVAL STORE, KANHANGAD VILLAGE.
4. MUHAMMEDKUNHI, S/O A.G.ABDULLA,
KOVVAL STORE, KANHANGAD VILLAGE.

BY ADV. SMT.T.SUDHAMANI

RESPONDENTS: STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. P.RAHMABI, S/O ABDULKHADER,
PARUTHICAL, PADANNA VILLAGE.

R2 BY ADV. SRI.T.MADHU
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28/02/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.536 of 2007

Dated this the 28th day of February, 2007

ORDER

The petitioners face indictment in a prosecution under Section 498 A read with 34 I.P.C. They are, husband, mother-in-law, sister-in-law and brother-in-law respectively of the 2nd respondent herein. Proceedings were initiated on the basis of a complaint filed by the 2nd respondent. After investigation, final report has been filed and cognizance has been taken by the learned Magistrate.

2. The petitioners as also the 2nd respondent who has entered appearance through counsel submit before the Court that the matter has been settled between them amicably and the 2nd respondent has compounded the offences allegedly committed by the petitioners. Original of an agreement between them is produced as Annexure-III. The learned counsel for the 2nd respondent vouches for the signature of the 2nd respondent in the agreement and confirms that the disputes between the parties have been settled amicably. After harmonious settlement of the disputes between them, the spouses have resumed cohabitation, it is submitted.

3. I am satisfied from the submissions made at the Bar and from Annexure-III that the parties have settled their disputes amicably and that the 2nd respondent has compounded the offences allegedly

committed by the petitioners. Continuance of this prosecution in these circumstances would amount to an unnecessary irritant in the relationship between the spouses and I am satisfied that if it is legally permissible, the premature termination of the prosecution can be resorted to.

4. The offence under Section 498 A I.P.C is not compoundable. But the learned counsel for the petitioners relies on the decision in **B.S.Joshy v. State of Haryana** [A.I.R 2003 S.C 1386]. Powers under Section 482 Cr.P.C can, in an appropriate case, be invoked notwithstanding the fetter on Section 320 Cr.P.C. Where the interests of justice transcend the interests of mere law resort to the powers under Section 482 Cr.P.C is perfectly justifiable, it is held in **B.S.Joshy**. This, I am satisfied, is a fit case where premature termination of the proceedings can be achieved by invoking the powers under Section 482 Cr.P.C.

5. In the result, this Crl.M.C is, allowed. C.C.No.1121 of 2005 before the learned Judicial First Class Magistrate Court-I, Hosdurg is hereby quashed.

(R.BASANT, JUDGE)

rtr/-

